

DECISIONS PER CURIAM, ETC., FROM FEBRUARY 1, THROUGH APRIL 11, 1937.*

No. 648. *FIRST BANK STOCK CORP. v. MINNESOTA*. Appeal from the Supreme Court of Minnesota. Jurisdictional statement distributed January 23, 1937. Decided February 1, 1937. *Per Curiam*: The appeal herein is dismissed upon the authority of *Rio Grande Ry. v. Stringham*, 239 U. S. 44, 47. MR. JUSTICE BUTLER took no part in the consideration or decision of this case. *Messrs. John Junell, Clark R. Fletcher, and Leland W. Scott* for appellant. *Messrs. William S. Ervin and Matthias N. Orfield* for appellee. Reported below: 198 Minn. 619; 270 N. W. 574.

No. 35. *SMITH v. HALL ET AL.*; and

No. 36. *SAME v. JAMES MANUFACTURING CO. ET AL.* Certiorari to the Circuit Court of Appeals for the Second Circuit. February 1, 1937. These cases are restored to the docket and assigned for reargument.

No. 103. *DISTRICT OF COLUMBIA v. CLAWANS*. Certiorari to the United States Court of Appeals for the District of Columbia. February 1, 1937. This case is restored to the docket and assigned for reargument.

No. 418. *HENNEFORD ET AL. v. SILAS MASON CO., INC. ET AL.* Appeal from the District Court of the United States for the Eastern District of Washington. Febru-

* For decisions on applications for certiorari, see *post*, pp. 646; 653; for rehearing, *post*, p. 685.

ary 1, 1937. This case is restored to the docket and assigned for reargument.

No. 436. *SCHWARTZ ET AL. v. IRVING TRUST CO., TRUSTEE, ET AL.* Certiorari to the Circuit Court of Appeals for the Second Circuit. February 1, 1937. It is ordered that the third and fourth sentences of the opinion delivered in this cause on January 4, 1937, be amended to read as follows: "Their leases were rejected in a bankruptcy proceeding pending when the reorganization section was adopted. All of the leases contained indemnity covenants similar to that considered in No. 354." The petition for rehearing is denied. [Reported as amended, 299 U. S. 457.]

No. —, original. *TEXAS v. NEW YORK ET AL.* February 1, 1937. Returns to rule to show cause presented.

No. 2, original. *VERMONT v. NEW HAMPSHIRE.* February 15, 1937. On consideration of the report of November 16, 1936, of Samuel S. Gannett, the Commissioner appointed herein by decree of this Court of January 8, 1934 (290 U. S. 579), to locate and mark on the ground the boundary between the State of Vermont and the State of New Hampshire, at the points designated in said decree, and the supplemental report of Samuel S. Gannett, Commissioner, of January 14, 1937, prepared and filed pursuant to order of this Court of December 21, 1936; and the State of Vermont and the State of New Hampshire having stipulated by counsel that they have no exceptions and no objections to the said report and the supplemental report, and they having applied to this Court to terminate the time within which exceptions

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or objections to said report and supplemental report may be filed;

It is now adjudged, ordered, and decreed as follows:

1. The time within which exceptions or objections to said report and supplemental report may be filed is hereby terminated;

2. The said reports are in all respects confirmed;

3. The boundary line marked and located on the ground as set forth by said reports and on the accompanying maps is established and declared to be the true boundary between the States of Vermont and New Hampshire, as determined by the decree of this Court of January 8, 1934;

4. As it appears that the Commissioner has completed his work, conformably to the decree of this Court of January 8, 1934, and the order of this Court of December 21, 1936, he is hereby discharged;

5. The Clerk of this Court is directed to transmit to the Chief Magistrates of the States of Vermont and New Hampshire copies of this decree, duly authenticated under the seal of this Court together with copies of the said reports of the Commissioner and of the accompanying maps;

6. The costs in this cause shall be borne and paid in equal parts by the States of Vermont and New Hampshire.

NO. 622. NEW YORK LIFE INSURANCE CO. ET AL. v. ALEXANDER, EXECUTOR, ET AL. Appeal from the Supreme Court of Mississippi. Motion to dismiss distributed February 13, 1937. Decided March 1, 1937. *Per Curiam*: The motion of the appellees to dismiss the appeal is granted, and the appeal is dismissed for the reason that the judgment sought here to be reviewed is based upon a non-federal ground adequate to support it. *Enterprise Irriga-*

tion Dist. v. Canal Co., 243 U. S. 157, 163, 164; *Fox Film Corp. v. Muller*, 296 U. S. 207, 210, 211; *Lansing Drop Forge Co. v. American State Savings Bank*, 297 U. S. 697. See *New York Life Insurance Co. v. Blaylock*, 144 Miss. 541. *Messrs. William H. Watkins, P. H. Eager, Jr., and Louis H. Cooke* for appellants. *Mr. W. E. Morse* for appellees. Reported below: 177 Miss. 172; 169 So. 882.

No. 692. *BUNGER v. GREEN RIVER*. Appeal from the Supreme Court of Wyoming. Motion to dismiss distributed February 20, 1937. Decided March 1, 1937. *Per Curiam*: The motion of the appellee to dismiss the appeal is granted, and the appeal is dismissed for the want of a substantial federal question. (1) *Gundling v. Chicago*, 177 U. S. 183, 188; *Western Turf Assn. v. Greenberg*, 204 U. S. 359, 363; *Williams v. Arkansas*, 217 U. S. 79. (2) *Lindsley v. Natural Carbonic Gas Co.*, 220 U. S. 61, 81; *Central Lumber Co. v. South Dakota*, 226 U. S. 157, 160; *Bryant v. Zimmerman*, 278 U. S. 63, 73. (3) *Asbell v. Kansas*, 209 U. S. 251, 254, 255; *Savage v. Jones*, 225 U. S. 501, 525; *Hartford Indemnity Co. v. Illinois*, 298 U. S. 155, 158. *Mr. John W. Davis* for appellant. *Mr. T. S. Taliaferro, Jr.*, for appellee. Reported below: 50 Wyo. 52; 58 P. (2d) 456.

No. 693. *VAUGHAN ET AL. v. NEW YORK*. Appeal from the Court of Claims of New York. Motion to dismiss distributed February 20, 1937. Decided March 1, 1937. *Per Curiam*: The motion of the appellee to dismiss the appeal is granted, and the appeal is dismissed for the want of a substantial federal question. *Hatch v. Reardon*, 204 U. S. 152, 159, 160. *Messrs. William F. Unger and Samuel P. Gilman* for appellants. *Mr. Henry*

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Epstein for appellee. Reported below: 272 N. Y. 102; 5 N. E. (2d) 53.

No. 698. PETER H. MARKMANN FUNERAL HOME, INC. v. RYAN. Appeal from the Supreme Court of Pennsylvania. Motion to dismiss distributed February 20, 1937. Decided March 1, 1937. *Per Curiam*: The motion of the appellee to dismiss the appeal is granted, and the appeal is dismissed for the want of a substantial federal question. *Crescent Oil Co. v. Mississippi*, 257 U. S. 129, 137; *Hanover Ins. Co. v. Harding*, 272 U. S. 494, 507; *Hemphill v. Orloff*, 277 U. S. 537, 548. *Mr. B. D. Oliensis* for appellant. *Mr. Henry A. Craig* for appellee. Reported below: 323 Pa. 139; 185 Atl. 851.

No. 584. CITY BUS CO. v. MISSISSIPPI. Appeal from the Supreme Court of Mississippi. Motion to dismiss distributed January 9, 1937. Adjudged to be dismissed for failure to comply with Rule 12 January 18, 1937. Motion to reinstate appeal filed February 4, 1937. Motion granted March 1, 1937. Decided March 1, 1937. *Per Curiam*: The motion to reinstate the appeal is granted. The appeal is dismissed (1) for the want of a substantial federal question, *Carley & Hamilton v. Snook*, 281 U. S. 66, 73-74; (2) insofar as a question is sought to be raised under the Fourteenth Amendment, for the want of a properly presented federal question. *McCorquodale v. Texas*, 211 U. S. 432, 437; *Forbes v. State Council of Virginia*, 216 U. S. 396, 399; *Rooker v. Fidelity Trust Co.*, 261 U. S. 114, 117; *Gelkom Realty Corp. v. Young Women's Hebrew Assn.*, 296 U. S. 537. *Messrs. Marcellus Green, Garner W. Green, and B. E. Eaton* for appellant. *Messrs. Greek L. Rice and W. W. Pierce* for appellee. Reported below: 176 Miss. 597; 169 So. 774.

No. 266. *ICKES, SECRETARY OF THE INTERIOR, v. FOX ET AL.*;

No. 267. *SAME v. PARKS ET AL.*; and

No. 268. *SAME v. OTTMULLER*. March 1, 1937. It is ordered by this Court that the opinion of this Court in these cases be, and it hereby is, amended as follows:

That the word "so" in line 6 from the bottom of page 1 be transposed to follow the word "suits" in the same line; and that there be inserted between the words "affect" and "the" in line 6 from the bottom of page 1, the words "the extent or measure of the rights of the respective respondents or" so that the sentence will read: "The allegations of the three second-amended bills of complaint differ in some particulars; but whether these differences will affect the extent or measure of the rights of the respective respondents or the final disposition of the suits so as to require unlike decrees, we do not determine."

The petition for rehearing is denied.

[Reported as amended, *ante*, p. 82.]

No. 105. *MURPHY v. MURPHY ET AL.* March 1, 1937. The motion for an order requiring the clerk of the Supreme Court of California to certify the record is denied.

No. 690. *DUGAN ET AL. v. BRIDGES, GOVERNOR, ET AL.* March 1, 1937. In this case probable jurisdiction is noted. The motion to substitute Walter H. White and William A. Jackson, members of the State Liquor Commission, as appellees herein in place of William M. Marcotte, Jr., and Bernard B. Chase, respectively, is granted. Further consideration of said motion, insofar as it requests the substitution of Francis P. Murphy, Governor of the State of New Hampshire, for H. Styles Bridges, is postponed to the hearing of the case on the merits. Reported below: 16 F. Supp. 694.

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No. 532. UNITED STATES *v.* BELMONT ET AL. March 1, 1937. Motion to intervene submitted by *Mr. Samson Selig* for John R. Crews, temporary receiver of the assets in New York of Petrograd Metal Works, in support of the motion, and by *Solicitor General Reed* for the United States in opposition thereto, and the motion denied. Reported below: 85 F. (2d) 542.

No. 741. BLACKMAN ET AL. *v.* STONE ET AL. Appeal from the District Court of the United States for the Southern District of Illinois. Jurisdictional statement distributed February 27, 1937. Decided March 8, 1937. *Per Curiam*: The decree entered by the District Court composed of three judges under 28 U. S. C. 380 is vacated upon the ground that the cause, so far as relief by injunction is sought, has become moot (*Mills v. Green*, 159 U. S. 651, 653; *Jones v. Montague*, 194 U. S. 147, 151, 152; *Richardson v. McChesney*, 218 U. S. 487, 492; *Mahan v. Hume*, 287 U. S. 575), but without prejudice to action by the District Court in relation to any matter which may remain in the cause. *Mr. Carol King* for appellants. *Mr. Otto Kerner* for appellees. Reported below: 17 F. Supp. 102.

No. 491. HOLTON *v.* KANSAS STATE BANK ET AL. Appeal from the Supreme Court of Kansas. Argued March 2, 1937. Decided March 8, 1937. *Per Curiam*: The appeal herein is dismissed for the want of jurisdiction. *Pawhuska v. Pawhuska Oil Co.*, 250 U. S. 394; *Trenton v. New Jersey*, 262 U. S. 182. *Mr. Albert M. Cole*, with whom *Mr. William B. Bostian* was on the brief, for appellant. *Messrs. E. R. Sloan, Eldon R. Sloan, Braden C. Johnston*, and *Otis S. Allen* were on the brief for appellees. Reported below: 144 Kan. 352; 59 P. (2d) 41.

No. —, original. *EX PARTE FILER & STOWELL CO. ET AL.* March 8, 1937. The motion for leave to file petition for writ of certiorari herein is denied.

No. —, original. *TEXAS v. NEW YORK ET AL.* March 8, 1937. Argued on the motion for leave to file bill of complaint and the returns to the rule to show cause, by *Messrs. William McCraw* and *Llewellyn B. Duke* for the State of Texas, complainant; *Mr. James J. Ronan* for the Commonwealth of Massachusetts, defendant; and *Mr. H. E. Carter* for the State of Florida, defendant. Motion for leave to file bill of complaint denied without prejudice.

No. 742. *ILLINOIS EX REL. DEBARDAS v. TOMAN, SHERIFF OF COOK COUNTY.* Appeal from the Supreme Court of Illinois. Motion to dismiss distributed March 6, 1937. Decided March 15, 1937. *Per Curiam*: The motion for leave to file the statement as to jurisdiction is granted. The motion of the appellee to dismiss the appeal is granted, and the appeal is dismissed for the want of jurisdiction. Section 237 (a), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 937). Treating the papers whereon the appeal was allowed as a petition for a writ of certiorari, as required by § 237 (c), Judicial Code, as amended (43 Stat. 936, 938), certiorari is denied. *Mr. Wm. Scott Stewart* for appellant. *Mr. Otto Kerner* for appellee. Reported below: 364 Ill. 516; 4 N. E. (2d) 859.

No. 758. *SINGER v. ILLINOIS EX REL. RUSCH.* Appeal from the Supreme Court of Illinois. Jurisdictional statement distributed March 6, 1937. Decided March 15,

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1937. *Per Curiam*: The appeal herein is dismissed for the reason that the judgment of the Supreme Court of the State of Illinois, sought here to be reviewed, is based upon a non-federal ground adequate to support it. *Callan v. Bransford*, 139 U. S. 197; *John v. Paullin*, 231 U. S. 583, 585. *Mr. Nat S. Ruvel* for appellant. No appearance for appellee. Reported below: 364 Ill. 480; 4 N. E. (2d) 823.

No. —, original. *TEXAS v. FLORIDA ET AL.* March 15, 1937. The motion for leave to file the bill of complaint herein is granted and process is ordered to issue returnable May 17, 1937. *Mr. William McCraw*, Attorney General of Texas, and *Mr. Llewellyn B. Duke* for plaintiff, in support of the motion.

No. 285. *UNITED STATES EX REL. GIRARD TRUST CO., TRUSTEE, v. HELVERING, COMMISSIONER OF INTERNAL REVENUE.* March 15, 1937. The motion for leave to file and the petition for rehearing are granted. The order entered on December 7, 1936 (299 U. S. 603) denying the petition for certiorari is vacated and the petition for writ of certiorari to the United States Court of Appeals for the District of Columbia is granted. Reported below: 66 App. D. C. 64; 85 F. (2d) 230.

No. 202 (October Term, 1935). *STONE ET AL. v. WHITE, FORMER COLLECTOR.* March 15, 1937. The motion for leave to file and the petition for rehearing are granted. The orders heretofore entered on October 14, 1935 (296 U. S. 596), and December 7, 1936 (299 U. S. 622), denying the petition for certiorari and petition for rehearing herein are vacated and the petition for

writ of certiorari to the Circuit Court of Appeals for the First Circuit is granted. Reported below: 78 F. (2d) 136.

No. 818. *WHITMORE v. SALT LAKE CITY ET AL.* Appeal from the Supreme Court of Utah. Motion to dismiss distributed March 20, 1937. Decided March 29, 1937. *Per Curiam*: The motion of the appellees to dismiss the appeal is granted and the appeal is dismissed for the want of jurisdiction. *Godchaux Co. v. Estopinal*, 251 U. S. 179; *Herndon v. Georgia*, 295 U. S. 441, 443; *Johnson v. Washington*, 296 U. S. 535. Treating the papers whereon the appeal was allowed as a petition for a writ of certiorari, as required by § 237 (c), Judicial Code, as amended by the Act of February 13, 1925 (43 Stat. 936, 938), certiorari is denied. *Mr. Albert R. Barnes* for appellant. *Mr. Walter G. Moyle* for appellees. Reported below: 89 Utah 387; 57 P. (2d) 726.

No. 724. *CARMICHAEL ET AL. v. SOUTHERN COAL & COKE Co.*; and

No. 797. *SAME v. GULF STATES PAPER CORP.* March 29, 1937. The motion to postpone the hearing of these cases is denied. The motions for modification of the injunctions are granted. The orders to be settled on notice. Reported below: 17 F. Supp. 225.

No. 724. *CARMICHAEL ET AL. v. SOUTHERN COAL & COKE Co.*; and

No. 797. *SAME v. GULF STATES PAPER CORP.* March 30, 1937. Orders entered modifying the injunctions in these cases. Reported below: 17 F. Supp. 225.

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No. —, original. EX PARTE ALBERT E. PEIRCE. April 5, 1937. The motion for leave to file petition for writ of certiorari is denied.

No. —, original. EX PARTE WILLIAM PAUL OWENS. April 5, 1937. The motion for leave to file petition for writ of habeas corpus is denied.

No. 12, original. TEXAS v. NEW MEXICO ET AL. April 5, 1937. The Special Master having submitted an *ad interim* report under date of March 26, 1937, and it appearing therefrom that a stipulation has been entered into by the Attorney General and Assistant Attorney General of the State of Texas, the Assistant Attorney General of the State of New Mexico, and counsel for the Middle Rio Grande Conservancy District, that stipulation being as follows:

"Subject to the approval of the Supreme Court of the United States or of the Special Master, New Mexico, the Middle Rio Grande Conservancy District and the State of Texas, in conformity with S. B. 234 of the Legislature of the State of New Mexico, stipulate that any further proceedings in Original Cause No. 12, October Term, 1936, be held in abeyance until the first day of October, 1937, without prejudice to the rights of any party."; and the Special Master having recommended the approval of the stipulation: It is ordered (1) that the above stipulation, filed with the report of the Special Master, be, and the same is hereby, approved, and the Attorneys for the State of Texas are directed to transmit a copy of this order to the Governor of the State of New Mexico; (2) that Charles Warren, the Special Master herein, be, and he is hereby, authorized to postpone hearings in this

cause, at his discretion, until such date after October 1, 1937, and prior to January 15, 1938, as he shall determine.

No. 35. SMITH *v.* HALL ET AL.; and

No. 36. SAME *v.* JAMES MANUFACTURING CO. ET AL.
April 5, 1937. S. Harold Smith, Executor of the Estate of Samuel B. Smith, substituted as the party petitioner on motion of *Mr. Dean S. Edmonds* for the petitioner. Reported below: 83 F. (2d) 217, 221.

No. 567. DAVIS *v.* BOSTON & MAINE RAILROAD ET AL.
April 6, 1937. Motion for leave to file petition for rehearing submitted by *Mr. Edward F. McClennen* for the petitioner, and the motion denied. Reported below: 89 F. (2d) 368. See 299 U. S. 614.

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No. 599. STROEHMANN ET AL. *v.* MUTUAL LIFE INSURANCE Co. February 1, 1937. Petition for writ of certiorari to the Circuit Court of Appeals for the Third Circuit granted, limited to the question of the application and effect of the incontestability clause in policy No. 4,361,192. *Messrs. George H. Hafer, George Ross Hull, and Carl B. Shelby* for petitioners. *Messrs. Reese H. Harris and Frederick L. Allen* for respondent. Reported below: 86 F. (2d) 47.

No. 627. MUMM *v.* JACOB E. DECKER & SONS. February 1, 1937. Petition for writ of certiorari to the Circuit Court of Appeals for the Eighth Circuit granted. *Messrs. Ralph F. Merchant and Frank W. Dahn* for pe-